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UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO

DAJUAN EMERSON,

: CASE NO. 1:14-cv-00809

Petitioner,

.

v. : OPINION & ORDER

[Resolving Docs. 1, 18]

BENNIE KELLY, Warden,

:

Respondent,

:

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Petitioner DaJuan Emerson seeks a writ of habeas corpus under <u>28 U.S.C.</u> § <u>2254</u>, alleging that his murder conviction in Ohio state court was based on DNA evidence obtained in violation of his Constitutional rights, and that his trial counsel was ineffective. On March 30, 2015, Magistrate Judge White recommended that the Court dismiss the petition. Neither party has filed an objection to Magistrate Judge White's Report and Recommentation ("R&R").

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a R&R to which a party has made an objection.^{3/} Parties must file any objections to a R&R within fourteen days of service.^{4/} Failure to object within that time waives a party's right to have the Court review the R&R.^{5/} Absent objection, a district court may adopt the R&R without

 $[\]frac{1}{2}$ Doc. 1.

 $[\]frac{2}{1000}$ Doc. 18.

^{3/}28 U.S.C. § 636(b)(1)(C).

⁴/Fed. R. Civ. P. 72(b)(2); LR 72.3(b).

⁵/_{LR 72.3(b)}; see *Thomas v. Arn*, 474 U.S. 140, 145 (1985); *United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981).

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Gwin, J.

review.6/

In this case, neither party has objected to the R&R. Moreover, having conducted its own

review of the record and the parties' briefing in this case, the Court agrees with the conclusions of

Magistrate Judge White.

Accordingly, the Court ADOPTS in whole Magistrate Judge White's Report and

Recommendation and incorporates it fully herein by reference. The Court **DENIES** Emerson's

petition.

Moreover, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this

decision could not be taken in good faith, and no basis exists upon which to issue a certificate of

appealability.^{7/}

IT IS SO ORDERED.

Dated: June 30, 2015

James S. Gwin

JAMES S. GWIN

UNITED STATES DISTRICT JUDGE

6/See Thomas, 474 U.S. at 149.

 $\frac{7}{2}$ 8 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

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